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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Arthur W. CHAFFEE

Title: INVESTMENT PORTFOLIO TRACKING SYSTEM AND METHOD

Appl. No.: 09/410,825

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Art Unit: 3624

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Sir:

Applicant presents this Reply Brief in response to the Examiner's Answer filed on 13 January 2005. Applicant wishes to briefly address certain points raised in the Answer.

1. Reply to Overview Section

The Overview begins with the generalization that "Applicant's invention involves aggregating accounting data pertaining to an investment portfolio that is old and well known in the art and using new technology to present the information to a user" and then goes on to state that balance sheets, computers and hyperlinks are all known. Applicant respectfully submits that the invention to be examined is

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that which is actually claimed, and that the examiner's burden is not reduced because aspects of the field to which the invention pertains can be characterized as old. Applicant's Appeal brief carefully examines the cited art and the pending claims and shows that the rejection overlooks or mischaracterizes many differences between the claims and the cited art, and draws unsupported inferences to bridge those differences. It is respectfully submitted that these errors are not mitigated by characterizing a generalized and inaccurate notion of the invention as old.

2. Rejection of independent claims 71 and 151

A. "calculating double entry asset, liability and equity balances for the investment portfolio as a whole" and "generating a financial position report"

The Answer alleges (pages 5-6) that Hinkle performs both of the above-mentioned subprocesses, citing Figures 2B, 4D and 15. Applicant disagrees with these allegations. Hinkle does not perform these subprocesses and they are not shown in the cited figures.

Figure 2B shows a diagram of a database that includes a "balance sheet table" 130. Figure 4D shows a process flow diagram in which one step is generating that balance sheet table. Figure 15 shows a process flow for updating a table containing "balance sheet data" (corresponding pseudo-code is provided at col. 57-58). As explained in the Appeal brief, this process flow merely changes the number of units of an investment that are recorded in the table as being held, or adds a new row to the table if no units of the investment were previously held. In other words, the cited portions of Hinkle with which the term "balance sheet" is associated involve tracking units of investments, not "calculating double entry asset, liability and equity balances for an investment portfolio as a whole" as required by the claims.

The cited figures also do not show the generation of a report containing the aforementioned calculated balances. The Answer states that "a balance sheet is a financial position report and hence Hinkle does teach this limitation." This allegation unreasonably extrapolates the appearance of the words "balance sheet" into a teaching of entire subprocesses that does not resemble anything in the reference. Neither the cited figures nor any other part of Hinkle shows any type of report or the generation of any type of report. Hinkle does not involve the production of a balance sheet type report that is presented to a user, nor a report having the asset, liability and equity balances required by the claim. Assertions to the contrary are unsupported by Hinkle, a fact that was raised in the Appeal Brief but not acknowledged or addressed in the Answer.

Hinkle simply does not teach what the Answer alleges it to teach, and this undermines the rejections of the independent claims and thus every claim in the application.

B. The combination of the references

The Answer states (page 7) that "Each of the limitations in claims 70 *[sic, 71]* and 152, are taught by the combined disclosures of Hinkle, Lewis and Reese." This allegation is incorrect. The Appeal brief points out many differences between the claimed invention and the combined teachings of the references, some of which are overlooked and other of which are avoided through unreasonable assertions as to what the references actually disclose. The Answer merely provides cites to portions of the reference whose relevance to the claims is not at all clear, and does little to account for these differences.

The Answer further states (page 7) that it would have been obvious to combine the teachings of the references at the time of the invention, on the basis that "the combination of these disclosures suggest that users would have benefited from the use of new technology to aggregate and present old and well-known

information to a user." However the claims do not describe the aggregation and presentation of "old and well-known information." General concepts such as assets and liabilities may be well-known, but a system that calculates and presents up-to-date asset, liability and equity balances for an investment portfolio based on current (market) price information was not provided by or contemplated by any of the art cited in the rejection. The alleged motivation to combine disregards what is actually claimed. The only thing in the record that motivates the claimed invention is the application itself.

C. "Moot" arguments

The Answer states in several places that applicant's explanations of the operation of Hinkle are "moot" because the explanations refer to aspects of the claim for which Hinkle was not cited. Applicant believes that these statements reflect an error that permeates the rejections. Applicant submits that in order to determine what would be obvious in view of the prior art, one must first understand what the prior art systems actually do (and do not do) and how they operate. Only then can reasonable conclusions and inferences about their teachings and suggestions be drawn. Applicant's explanations are offered to achieve a clear understanding of the prior art systems upon which the rejections are based. The Answer views this information as "moot" because it begins with a conclusion of obviousness and then grasps for any similarities in the prior art, no matter how tenuous, rather than working forward from an understanding of the prior art and what it reasonably suggests.

3. Rejections of dependent claims

The reasoning that the Answer puts forth in support of the rejections of the dependent claims has been adapted from the rejection of 31 March 2003 by

removing citations to references that were dropped in subsequent rejections.[1] These rejections merely reiterate the claim language and state that the feature is found in Lewis, sometimes with no specific cite, and typically with little or no explanation as to why the cited portion is relevant to what is claimed.

Applicant has previously responded to these rejections with explanations of why the reference fails to teach the features for which they are cited. These explanations are reproduced below, organized according to the grouping of claims provided in the Appeal brief:

Claim 72-74: these claims specify details of the transaction data processed by the claimed method. The official action cites passages of Lewis where key words from these claims are found, i.e., "cash," "margin," however the cited passages are taken out of context. The terms do not refer to parts of transaction data and the cited passages do not teach what is done with transaction data in the present claims.

Claim 75: this claim refers to allowing a user to enter transaction data characterizing a hypothetical transaction to see its effects on the asset, liability and equity balances of the portfolio as a whole. The official action cited paragraphs 23 and 33 of Lewis as teaching these features, however neither of these paragraphs mentions anything about inputting hypothetical transactions or recalculating a financial position report based on the hypothetical transactions. Paragraph 23 of Lewis says that data is received and stored in a database and made available for

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[1] The Answer states that each of the dependent claims was fully addressed in previous prosecution (the 31 March 2003 official action) and therefore the rejections of the dependent claims did not need to be repeated in the rejection currently appealed. In fact, the 31 March 2003 rejection only had one reference (Lewis) in common with the rejection currently appealed, and the rejections of a number of the dependant claims cited Lewis along with another reference (Park) that was not applied in the rejection now appealed. The applicant provided a detailed response to the rejections of the dependent claims in reply to the 31 March 2003 rejection, but those arguments were not addressed or even acknowledged in subsequent official actions, a practice that is usually reserved for situations in which the rejections have been withdrawn or their grounds have been changed. It cannot be left to the applicant to infer grounds for rejection under such confusing circumstances.

querying, while paragraph 33 of Lewis states that "business rules" that specify how data is to be stored in the database may be modified. Claim 75 refers to inputting transaction data for a "what-if" scenario for producing reports that reflect the effects of the what-if scenario. Inputting hypothetical transaction data has nothing to do with changing business rules that specify how incoming data is stored.

Claims 76-78: these claims refer to generation of a cash balance that is one portion of the asset balance. An example of such a report is provided in Figure 9I of the application. The cited portion of Lewis (paragraph 26) mentions that it is an object of Lewis to "continuously post transactions to ... cash balances." Posting a transaction simply means that the transaction is assigned to a particular account, whereas the present claims refer to producing a cash balance report that encompasses the portfolio as a whole, and doing so as a sub-set of an over-all asset balance calculation. Lewis never uses the term "asset balance," and does not teach that a cash balance is part of an asset balance of a financial position report (claim 76) or is hyperlinked to a supporting report (claim 77). Lewis also does not teach the details of a cash balance report as specified in claim 78.

Claims 79-82: these claims refer to generation of a securities current basis balance (i.e., the amount paid for an investment plus associated commissions and costs) that is one portion of the asset balance. An example of such a report is provided in Figure 9H of the application. Nothing in Lewis refers to a current basis, let alone a securities current basis balance, and the term is never used in Lewis. The rejection of claim 79 refers to the features of claim 80 and fails to address claim 79 at all, and although paragraph 26 of Lewis is cited, paragraph 26 does not teach calculating a securities current basis for an investment portfolio as a whole. Paragraph 26 merely discusses posting individual transactions. Paragraph 26 does not teach the current value, gain and loss recited in claim 81. Claim 82 states that the calculation of current value, gain and loss is done using real time (i.e., market) price data. The official action asserts that this is taught by paragraph 24 of Lewis,

however paragraph 24 merely states that report generation is performed in real time (i.e. using real time transaction data from the Lewis database), whereas claim 82 requires the use of real-time (market) price data for calculating the balances in the report. The cited portions of Lewis do not use the term "asset" and therefore cannot teach that a securities current basis balance is part of an asset balance.

Claims 83-85: these claims refer to generation of a margin borrowed balance and report as part of the liability balance. An example of such a report is provided in Figure 9K of the application. Margin borrowed is a well known accounting term that refers to how much money has been borrowed. Paragraph 127 of Lewis teaches that a margin maintenance requirement may be calculated, but this is different than a margin borrowed balance report. In contrast, a margin maintenance requirement is how much money may be borrowed against current investments based on federal regulations (e.g. 50%). Paragraph 138 refers to a margin value but does not discuss a margin borrowed balance and report. Lewis does not teach a margin borrowed balance report. The cited portions of Lewis do not use the term "liability" and therefore cannot teach that a margin borrowed balance is part of a liability balance.

Claims 86-88: these claims refer to generation of a margin interest balance and a margin interest payable report as part of the liability balance. An example of such a report is provided in Figure 9M of the application. Margin interest is a well-known accounting term that refers to the interest charged on money borrowed. The official action cites paragraphs 26, 36 and 70 of Lewis and states that "margin maintenance amounts and interests are interpreted to include margin interest and cost and balance." However the only mention of margin in the cited passages is the term "margin maintenance amounts," which as explained above is how much money may be borrowed against current investments. Lewis does not teach a margin interest payable report.

Claims 89-92: these claims refer to generation of a taxes payable balance and a supporting report as part of the liability balance. Taxes payable refers to

taxes that would have to be paid on all investments if sold at current (i.e. market) prices, as well as tax payments already due because of previous sales or closures. An example of such a report is provided in Figure 9S of the application. The official action cites paragraphs 23, 24, 26, and 36 of Lewis. The cited portions of Lewis mention payables but do not teach or suggest calculating taxes payable on an investment portfolio as a whole, or providing a report supporting this calculation. The feature of using user-supplied tax rates for this calculation is completely absent from paragraph 36 of Lewis, which is cited as teaching that feature but makes no mention of taxes whatsoever. Lewis does not teach a taxes payable report. The terms "short term," "long term," "unrealized," "state" and "federal" do not appear anywhere in Lewis.

Claims 93-95: these claims refer to generation of a cash invested balance and a cash invested report. An example of such a report is provided in Figure 9J of the application. The cited paragraphs 23 and 26 of Lewis mention nothing regarding a cash *invested* balance. Cash invested is that amount of actual cash used when buying securities, excluding any borrowed money (margin) that was used to buy the securities. Lewis mentions nothing about this concept and does not teach a cash invested report. The term "cash invested" does not appear anywhere in Lewis.

Claims 96-100: these claims refer to generation of a net worth balance and net worth report. An example of such a report is provided in Figure 9U of the application. The cited paragraphs 24-26, 36 and 70 of Lewis make no mention of equity or net worth. Rather, paragraphs 24-26 simply use the term "net payables," paragraph 36 describes the server used by Lewis and paragraph 70 says merely that transactions are "netted" to specific ledger entries. Lewis does not teach a net worth report for an investment portfolio as a whole. Lewis does not teach calculating net worth using real time (market) price data. The claim terms "equity balance" and "net worth" do not appear anywhere in Lewis.

Claims 100-102: these claims specify that real time (market) price information is used for generating the financial position report and that current (market) price information is obtained in response to a user request for the financial position report. The combined references do not teach a financial position report for an investment portfolio as a whole and so do not teach providing such a report in response to a request.

Claims 104 and 153 specify the features of producing an income (i.e. profit/loss) statement for an investment portfolio as a whole, including generating revenue and expense balances for the portfolio as a whole and revenue and expense reports hyperlinked to the corresponding balance. The income statement portion of the financial position report is shown at the bottom of the report of Figure 8, as well as in the bottom portions of Figures 9V-1, 9V-2 and 9V-3. The official action's rejection of claim 104 refers back to claim 71 without any discussion of any of the features of claim 104. It was previously demonstrated that claim 71 is not taught by the cited references. None of the features of claim 104 are taught by the cited references, and it is the burden of the official action to specify where features are found in the cited references, otherwise the claim must be allowed. Claims 104 and 153 specifically recite the features of a profit and loss report that is included with the financial position report. The profit and loss report presents the revenues and expenses occurring within a given period. It is different than the equity, liability and asset balances of the financial position report because those balances show the status of the portfolio at a given instant, whereas the profit and loss report shows the changes in the portfolio over a defined period of time. The cited portions of the references have nothing to do with these concepts.

Claims 105-109: these claims refer to generating a gains and losses balance and supporting reports, such as gross gains and losses, net gains and losses, bought value, and realized and unrealized value, as part of the revenue balance of a profit and loss report. Examples of such reports are provided in Figures 9N-1, 9N-2, 9N-3 and 9N-4 of the application. Gross gains and losses are gains and losses

before subtracting expenses such as commissions and costs, while net gains and losses are gains and losses once expenses such as commissions and costs have been subtracted. The official action cites paragraphs 26, 36 and 70 of Lewis, however these paragraphs do not address calculating the gains and losses of a portfolio as a whole, or any of the specifically claimed supporting reports. With regard claim 108, the official action states that "commissions and costs" are interpreted to be included in the "financial terms" discussed in Lewis. However, the terms discussed by Lewis are terms for a single transaction, and are not representative of anything concerning a portfolio as a whole. Further, "commissions" and "costs" are clear and well-known accounting terms that cannot be interpreted to be anything other than what they are. There is no teaching relating to these concepts in Lewis. With regard to claim 109, the term "unrealized" does not appear anywhere in Lewis. Lewis teaches nothing regarding a gains and losses balance report for an investment portfolio as a whole.

Claims 110-112: these claims refer to generating a dividends and interest balance and a supporting report. An example of such a report is provided in Figure 9E of the application. The official action cites paragraphs 70 and 99 of Lewis, however, the mention of "interests" in paragraph 70 refers to interest associated with a single transaction, and the mention of dividends in paragraph 99 refers to dividends received for individual securities, which is conventional investment information. Lewis teaches nothing regarding a dividends and interest balance report supporting a profit and loss section for an investment portfolio as a whole.

Claims 113-115 refer to generating a commissions and costs balance and a supporting report. The cited paragraphs 26 and 70 of Lewis do not address this feature. Paragraph 26 merely refers to the cost basis of a position (i.e. how much was paid for a security, as opposed to other costs associated with buying it), while paragraph 70 mentions nothing about commissions or costs. Lewis teaches nothing regarding a commissions and costs balance report.

Claims 116-118: these claims refer to generating a margin interest balance and a supporting report. An example of such a report is provided in Figure 9M of the application. The cited paragraphs 26, 70, 102, 127 and 138 of Lewis do not address this feature. Paragraphs 26 and 70 do not mention margin. Paragraph 102 mentions that a stock sale may affect an account holder's margin position. Paragraph 127 mentions that buying power can be determine for investors who buy on margin. Paragraph 138 mentions that the margin value of a position can be determined. These paragraphs do not teach determining a margin *interest* balance for an investment portfolio as a whole and do not teach a margin interest balance report. These claims cannot be rejected simply because both the claims and the reference simply use the term margin.

Claims 119-122: these claims refer to generating state and federal tax balances, and a state and federal tax report that includes both short term and long term tax expenses for both realized and unrealized gains/losses. An example of such a report is provided in Figure 9R of the application. The official action refers to paragraphs 26, 33 and 36 of Lewis, however these paragraphs make no mention of taxes. The terms "short term," "long term," "unrealized," "state" and "federal" do not appear anywhere in Lewis. Lewis teaches nothing about calculating these balances using real time (market) price data or user defined tax rates. Lewis teaches nothing about producing reports supporting these balances.

Claim 123 refers to calculating the balances of claim 104 using real time (market) price data to determine real time profit and loss activity. Paragraphs 23-26 of Lewis are cited, however these paragraphs merely stated that data may be queried and reports may be generated in a real time manner, i.e., using real time transaction data entered into the Lewis database. No teaching of generating the balances or reports of claim 104 is taught by Lewis.

Claim 124 refers to allowing a user to enter transaction data characterizing a hypothetical transaction to see its effects on the asset, liability and equity balances. The cited portions of Lewis mention nothing about inputting hypothetical

transactions or recalculating a financial position report based on the hypothetical transactions.

Claims 125 refers to calculating a performance measure the provides a rate of return that takes into account the holding period for individual securities, and generating a report supporting the performance measure. The official action cites paragraphs 33, 36, 106 and 150 of Lewis, and asserts that Lewis' "customization of business rules" encompasses calculating a rate of return on a portfolio basis. Paragraphs 33 and 36 say nothing about determining a rate of return. Paragraph 106 merely says that a business rules-driven architecture can be used to customize information. Paragraph 150 says that a time series engine may be used to retrieve historical data. None of the cited portions discusses calculating a rate of return, or doing so for a portfolio as a whole, or doing so while taking into account holding periods for individual securities, or producing a report supporting such a performance measure.

Claims 126-131: Claims 126-128 refer to generating a return on securities and a report supporting the return on securities. Examples of such a report are provided in Figures 9O-1 and 9O-2. The official action cites paragraphs 26, 33, 36 and 70 of Lewis as teaching this feature, however none of these paragraphs mentions the concept of a return on securities or teaches a report for supporting that quantity. Claims 129-131 specify various features included in a return on securities report. Examples of such a report are provided in Figures 9O-1 and 9O-2. The official action cites paragraphs 29, 33, 36, 99, 100, 106, 138 and 150 for these features, however these paragraphs make no mention of the concept of return on securities, and do not even use the word "return."

Claims 132-136: these claims refer to generating a cash return on securities performance measure and report, and specific features of the report. Examples of such a report are provided in Figures 9P-1 and 9P-2. The official action cites paragraphs 29, 33, 36, 99, 100, 106, 138 and 150 for these features, however again these paragraphs make no mention of the concept of return on securities, let

alone cash return on securities, and do not even use the word "return." The term "cash return on securities" refers to the return when calculated based on only the cash used to make the investment (i.e. excluding any money borrowed on margin). This concept appears nowhere in any of the cited references.

Claims 137-139: these claims specify that the current (market) price information used for generating a financial position report is obtained in response to a user request for the financial position report. The combined references do not teach a financial report and so do not teach providing such a report in response to a request.

Claim 140: this claim specifies that transaction data records are accessed from a remote server through the internet. The combined references do not teach the features of the independent claim and so this claim is distinguished on that basis.

The foregoing discussion shows that none of the cited references teach any of the reports specified in the dependent claims, or the balances and other quantities of the main report that are supported by and hyperlinked to those reports. Accordingly, the dependent claims are allowable on the basis of their respective features as well as for the features of their antecedent claims.

CONCLUSION

For the foregoing reasons, applicant requests the Board of Appeals to overturn all prior art rejections.

Respectfully submitted,

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